

**REMARKS**

Claims 1-12 are pending after entry of this paper. Claims 1-11 have been rejected.

Claim 1 has been amended to clarify the claimed invention. Support for this amendment may be found throughout the instant specification and claims, for example last paragraph on page 3 and paragraphs 1 and 2 on page 4.

Claims 2-11 have been amended to replace the phrase “a transfer and insulation device according to claim...” with the phrase “the transfer and insulation device according to claim...” The claims clearly refer to the transfer and insulation device recited in claim 1.

Claim 3 has been amended to depend from claim 2. Support may be found on page 3, lines 29-31 of the instant specification.

Claims 4-11 have been amended to replace the term “anode” with the term “electrode.” Support may be found throughout the instant claims and specification, for example at page 3, lines 10-15 of the specification.

Claim 4 has been amended to clarify the claimed invention. Support may be found, for example, on page 4, lines 5-7 of the instant specification.

New claim 12 has been added to further define the electrode as an anode. Support may be found on page 3, lines 10-11 of the instant specification.

No new matter has been introduced by this amendment. Reconsideration and withdrawal of the pending rejections in view of the above claim amendment and below remarks are respectfully requested.

Response to Objections to the Specification

The specification has been objected to due to informalities. According to the Examiner, these informalities are as follows: the lack of section titles, the improper reference to claim 1 in the specification and misspelling of the word “notching” (Office Action – pages 2-3). Applicants submit, that all of the Examiner’s concerns have been addressed in the amendment to the specification. Withdrawal of the objection to the specification is respectfully requested.

Response to Rejections under 35 U.S.C. §112

Claims 1-11 have been rejected under 35 U.S.C. §112, second paragraph for indefiniteness. Specifically, the Examiner contends that claims 1-11 are allegedly vague and indefinite with respect to the structure of the transfer and insulation device. The Examiner further alleges that the device as described in the instant specification and drawings consists of more than one part and therefore is not clear how it can be made of one piece (Office Action – page 3). Applicants respectfully disagree.

However, in order to expedite prosecution and solely for the purpose of allowance of the instant application, applicants have amended claim 1 to clarify the composition of the transfer and insulation device 1. Specifically, claim 1, as amended herein, is drawn to a transfer and insulation device comprising a transfer portion and an insulation portion, where the device is one single piece and the insulation portion is attached to an electrode. Support for this amendment may be found throughout the instant specification and claims, for example, the last paragraph on page 3 and paragraphs 1 and 2 on page 4. Figure 1 of the instant application illustrates a closeup view of the electrolytic tank assembly near the busbar that connects the

anode of one cell with the cathode of the adjacent cell. The transfer and insulation device denoted as **1** and outlined in bold lines in Figure 1 and 2 of the instant application is made as one single piece and is attached to the suspension rod **5**, which passes through it, by means of a locking pin through the fastening point **14** (*See* page 6, par. 1 of the instant specification). Specifically, as described on page 6 in paragraphs 1 and 2, the transfer and insulation device **1** has the fastening point **14**, the distribution element **15**, the grip lug **17** and the inclined part **18**. Applicants respectfully wish to point out to the Examiner, that all of these elements are descriptive elements of the transfer and insulation device and are not separate entities as presumed by the Examiner (Office Action – page 3). Therefore, applicants assert that one skilled in the art would understand the metes and bounds of the claimed invention.

Reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph for indefiniteness are respectfully requested

#### Response to Rejections under 35 U.S.C. §102

Claims 1, 4, 6-11 have been rejected under 35 U.S.C. §102(b) as being anticipated by Virtanen, et al. (U.S. Patent 6,342,136). According to the Examiner, Virtanen, et al. disclose an electrolytic cell busbar construction which forms gaps between the electrodes and provides an integral profile longitudinally to the cell and the support lugs of the electrodes. The Examiner contends that Virtanen, et al. allegedly anticipate the claimed invention based on the disclosure of a gripping lug/suspension rod as shown in Figure 2 as feature 4 of Virtanen. According to the Examiner, Virtanen's "suspension rod and gripper hook are fastened in some manner [sic] and it appears that the gripper mechanism surrounds the suspension rod does not fully cover the

suspension rod” (Office Action – page 5). The Examiner further alleges that a distribution element for insulating adjacent electrodes is set forth on the cell side wall with an insulating plate and main busbar. Accordingly, the Examiner alleges that Virtanen, et al. anticipate the instant invention based on the disclosure as set forth. Applicants respectfully disagree.

The claimed transfer and insulation device as shown in figure 1 and 2 as feature 1 is made of one single piece having a transfer portion and an insulation portion. Applicants assert that the claimed invention is not anticipated by Virtanen, since the Virtanen publication does not disclose either expressly or inherently, a transfer and insulation device made of a single piece as disclosed in the instant specification and claims. The Examiner attempts to achieve the claimed transfer and insulation device by comparing it to a support lug 4 of Virtanen. The Examiner further states that “the suspension rod and gripper hook are fastened in some manner as seen in Figure 2 [of Virtanen; feature 4] and it appears [that] the gripper mechanism surrounds the suspension rod and does not fully cover the suspension rod.” (emphasis added). In fact, one skilled in the art could draw many conclusions about the composition of support lug 4 based on the disclosure of Virtanen. Thus, as a matter of law the Virtanen reference does not expressly anticipate the present invention.

With respect to the inherent anticipation, the MPEP 2112 states that “[t]o establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' ” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (emphasis added).

For example, based on what is known in the art, a cathode plate **2** of Virtanen has to be somehow attached to the suspension rod (a narrower part of the support lug **4** according to the Examiner). One mechanism to achieve that in Virtanen is to employ a metal strap (a gripper mechanism according to the Examiner) that would surround the suspension rod. Furthermore, the “gripper hook” has to be attached to such metal strap as a separate component. Therefore, the alleged device of Virtanen would have to be made of multiple components, *i.e.*, such as a metal strap and a gripper hook. In addition, the metal strap (a gripper mechanism) would not be used as an insulation since it would be electroconductive. Clearly, an artisan, would not arrive at the claimed insulation and transfer device made of a single piece based on the Virtanen, et al. disclosure and based on what was known in the art. Anything beyond that is merely speculative and is not based on any particular disclosure of the Virtanen, et al. patent.

Furthermore, applicants respectfully submit that the Examiner’s statement that “[a] distribution element for insulating adjacent electrodes is set forth on the cell side wall with an insulating plate and main busbar” (Office Action – page 5; emphasis added) has no bases in the Virtanen, et al. disclosure. In fact the distribution element **15** which is part of the transfer and insulation device **1** is only mentioned in the present application. The Examiner is invited to provide any support for such conclusion.

Therefore, in view of the arguments presented above, applicants assert that the claimed invention is not anticipated by Virtanen, et al. either expressly or inherently. Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §102(b) rejection of claims 1, 4, 6-11 as being anticipated by Virtanen, et al.

Response to Rejections under 35 U.S.C. §103

Claims 2 and 3 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Virtanen, et al. (U.S. Patent 6,342,136) in view of Dailey, et al. (U.S. Patent 5,534,048). Specifically, the Examiner contends that Virtanen, et al. anticipates each and every limitation of the claims except that the transfer and insulation device is made of a chemically resistant and insulating material, which is made obvious in view of the Dailey, et al. disclosure (Office Action – page 5). Applicants respectfully disagree.

Applicants assert, contrary to the Examiner's contention, that Virtanen does not recite each and every aspect of the claimed invention as applied to Claims 1, 4 and 6-11. As discussed *supra*, Virtanen merely discloses a support lug **4** (See Figures 1 and 2 of Virtanen), but does not disclose a transfer and insulation device of the present invention.

Dailey, et al. may disclose the use of a coating which can be applied to the metallic structures to allow proper handling of the electrolytic parts (col 1, lines 29-39). However, the Examiner does not present any evidence as to why one skilled in the art while reading the disclosure of the Virtanen publication would be motivated or even have guidance to modify the support lug with the chemically resistant coating to result in a transfer and insulation device which is made from a single piece having a transfer portion and an insulation portion where an electrode is attached to the insulation portion of the device. Thus, the combination of Virtanen and Dailey does not remedy the deficiencies in the device described by Virtanen. Therefore, the combination of Virtanen and Dailey does not make obvious the claimed invention. Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §103(a) rejection of claims 2 and 3 in view of the aforementioned remarks.

Dependent Claims

The applicants have not independently addressed all of the rejections of the dependent claims. The applicants submit that for at least similar reasons as to why independent claim 1 from which all of the dependent claims 2-11 depend are believed allowable as discussed *supra*, the dependent claims are also allowable. The applicants however, reserve the right to address any individual rejections of the dependent claims and present independent bases for allowance for the dependent claims should such be necessary or appropriate.

Thus, applicants respectfully submit that the invention as recited in the claims as presented herein is allowable over the art of record, and respectfully request that the respective rejections be withdrawn.

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application. Favorable action by the Examiner is earnestly solicited.

**AUTHORIZATION**

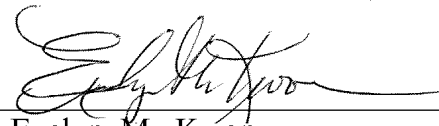
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No. 4819-4714.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **13-4500**, Order No. 4819-4714.

Respectfully submitted,  
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